

Amendment to Drawings:

The attached sheet of drawings (FIGS. 1, 2 and 4, 1 sheet) hereby replaces the original sheet of drawings (FIGS. 1, 2 and 4, 1 sheet).

REMARKS

Pending Claims:

Claims 1 to 10 were pending. Claims 6 to 8 and 10 have been withdrawn from consideration by the Examiner. Claim 1 has been amended and constitutes no new matter, support for which can be found in the specification and drawings.

Objections to the Specification:

The Examiner has objected to the abstract of the specification because it contains legal phraseology, namely comprising. The abstract has been amended to correct this deficiency.

Amendment to the Drawings:

The Examiner has required that FIG. 1 should be designated by a legend such as "Prior Art". The attached sheet of drawings (FIGS. 1, 2 and 4, 1 sheet) hereby replaces the original sheet of drawings (FIGS. 1, 2 and 4, 1 sheet) to correct this deficiency.

Terminal Disclaimer:

Claims 1 to 5 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 to 6 and 9 of copending application U.S. Serial No. 10/805,165 to Maianti et al.

A Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) is enclosed herewith.

Rejections under 35 U.S.C. § 102:

Claims 1 to 5 and 9 have been rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,770,149 to Raible. Applicants respectfully traverse this rejection of the claims.

Although Applicants disagree with the Examiner, the claims have been amended to clarify the subject matter of the claims. Claim 1 has been amended to recite that the pump has an inlet connected to receive blood from the outlet of the heat exchanger. Raible does not teach nor suggest a device which includes a pump that has an inlet connected to receive blood from the outlet of the heat exchanger. Raible discloses a device in which blood first enters the pump and then travels through the heat exchanger to the oxygenator. Therefore Applicants respectfully request that the rejection of claim 1 be withdrawn. Claims 2 to 5 and 9 depend from claim 1 and thus add further limitations to claim 1. Therefore Applicants believe claims 2 to 5 and 9 are also allowable and respectfully request that the Examiner withdraw the rejection of claims 2 to 5 and 9.

Conclusion

In view of Applicants' amendments and remarks, the claims are believed to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue are respectfully requested.

Amendment and Response
Applicants: Edgardo Costa Maianti et al.
Serial No.: 10/614,722

Attorney Docket: DID1044US

If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

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